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REDACTED FOR PUBLIC INSPECTION

July 27, 2018

VIA HAND DELIVERY AND ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

**RE: Request for Confidential Treatment
Petition for Expedited Waiver, CG Docket Nos. 03-123 & 10-51**

Dear Ms. Dortch:

Pursuant to Sections 1.3 and 1.41 of the rules of the Federal Communications Commission (“Commission”),¹ ZVRS Holding Company, parent company of CSDVRS, LLC, d/b/a ZVRS and Purple Communications, Inc. (together, the “Companies”), hereby submits the attached confidential version of its Petition for Expedited Waiver (“Petition”), the redacted version of which has been filed in the above-referenced dockets.

Pursuant to Sections 0.457 and 0.459 of the Commission’s rules,² the Companies request that the Commission afford confidential treatment to the information that has been marked confidential in the attached Petition and withhold that information from public inspection. The confidential information includes granular information about network facilities and operations, information that discusses in detail the amount of traffic handled, and granular information about costs and revenues. The Companies also request that the Commission withhold from public inspection the two Exhibits that are redacted in their entirety in the public version of the Petition, as it would not be feasible to separate the confidential information from any non-confidential information contained therein. Such information falls within Exemption 4 of the Freedom of Information Act (“FOIA”).³

In support of this request and pursuant to Section 0.459(b) of the Commission’s rules, the Companies hereby state as follows:

1. Identification of the specific information for which confidential treatment is sought.

The Companies request confidential treatment with respect to the confidential information redacted from the version filed electronically with the Commission.

¹ 47 C.F.R. §§ 1.3; 1.41.

² 47 C.F.R. §§ 0.457; 0.459.

³ See 47 C.F.R. § 0.457(d).



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2. Identification of the circumstance giving rise to the submission.

The Companies are submitting this information with respect to a Petition for Expedited Waiver of Section 64.604(c)(5)(iii)(N)(2)(iii) of the Commission's rules regarding a VRS call center.⁴

3. Explanation of the degree to which the information is commercial or financial or contains a trade secret or is privileged.

The information in the attached Petition is highly-sensitive commercial information specific to day-to-day operations, network facilities and operations, information that discusses in detail the amount of traffic handled, and granular information about costs and revenues. This information is generally safeguarded from competitors and is not made available to the public.

4. Explanation of the degree to which the information concerns a service that is subject to competition.

The confidential information involves Video Relay Service, a nationwide competitive service.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

Disclosure of the information included in the Petition could cause substantial competitive harm and would provide competitors insight into confidential operational, financial and strategy information, which would result in a severe competitive disadvantage.

6. Identification of any measures taken to prevent unauthorized disclosure.

The Companies routinely treat the information provided in the Petition as highly confidential and exercise significant care to ensure that such information is not disclosed to their competitors or the public.

7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

The Companies do not make the information provided in the attached Petition available to the public, and this information has not been previously disclosed to third parties, except where required by the Commission and the TRS Fund administrator, each of whom protect the confidentiality of such submissions.

⁴ 47 C.F.R. § 64.604(c)(5)(iii)(N)(2)(iii)



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8. Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.

The Companies request that the information identified in the following Petition be treated as confidential on an indefinite basis, as they cannot identify a date certain on which this information could be disclosed without causing competitive harm.

Respectfully submitted,

/s/ Gregory Hlibok

Gregory Hlibok
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Enclosure

cc:

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service)	CG Docket No. 10-51
Program)	
)	
Telecommunications Relay Services and Speech-)	
to-Speech Services for Individuals with Hearing)	CG Docket. 03-123
and Speech Disabilities)	

PETITION FOR EXPEDITED RETROACTIVE WAIVER

ZVRS Holding Company, parent company of CSDVRS, LLC, d/b/a ZVRS (“ZVRS”) and Purple Communications, Inc. (“Purple”) (together, the “Companies”), pursuant to Sections 1.3 and 1.41 of the rules of the Federal Communications Commission (“Commission”), hereby requests that the Commission grant, on an expedited basis, a retroactive waiver of the requirement in Section 64.604(c)(5)(iii)(N)(2)(iii) to file written notification with the TRS Fund administrator (“Administrator”) of a change in a call center's location, including the opening, closing, or relocation of any center, at least 30 days prior to any such change.¹ Grant of the retroactive waiver is in the public interest because: (1) Notification was given to the Commission but, due solely to an administrative error, was mistakenly not provided to the Administrator; (2) the Administrator is now withholding compensation for Video Relay Service (“VRS”) minutes [*** **BEGIN CONFIDENTIAL** ***] [REDACTED]

¹ 47 C.F.R. §§ 1.3, 1.41; *see also* 47 C.F.R. § 64.604(c)(5)(iii)(N)(2)(iii). On July 2, 2018, ZVRS and Purple Communications, Inc. (“Purple”) separately filed in the above-captioned proceedings a Request for Clarification or, in the Alternative, Petition for Expedited Limited Retroactive Waiver of Section 64.604(c)(5)(iii)(N)(2)(iii) with respect to at-home workstations activated by ZVRS and Purple in furtherance of their participation in the Commission’s voluntary at-home Video Relay Service call handling pilot program.

[REDACTED] [*** END CONFIDENTIAL ***] which disproportionately punishes the Companies for an inadvertent failure to notify the Administrator; and (3) the Chief Compliance Officer for the Companies has addressed this issue internally to ensure that both the Commission and the Administrator receive all future call center change notifications moving forward.

I. BACKGROUND

On April 27, 2018, ZVRS submitted to the Commission notification of a traditional VRS call center move within [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] on June 4, 2018.³ Mistakenly, there was a failure also to file with the Administrator a call center notification with a new call center number for [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] address. The move to the [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] address took place on June 4, 2018, [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***]

ZVRS discovered its error on July 6, 2018, when it filed with the Administrator a call center change notification covering the move of a separate call center. ZVRS took corrective action quickly after discovering the error. On July 9, 2018, ZVRS filed a call center change notification with the Administrator that showed the closing of the call center at [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] and the

2 [*** BEGIN CONFIDENTIAL ***] [REDACTED]
[REDACTED] [*** END
CONFIDENTIAL ***]

³ See Exhibit 1 (April 27, 2018 Call Center Change Notification to Commission).

opening of the center at [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] with a new call center number.⁴

Although ZVRS notified the Commission of the change, because it did not provide 30 day's advance notice to the Administrator as well, the Administrator notified ZVRS that it plans to withhold payments for [*** BEGIN CONFIDENTIAL ***] [REDACTED]

[REDACTED] [*** END CONFIDENTIAL ***] Specifically, the Administrator plans to withhold [*** BEGIN CONFIDENTIAL ***] [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED] [*** END CONFIDENTIAL ***] The Companies file the instant Petition for a retroactive waiver of Section 64.604(c)(5)(N)(2)(iii) with respect to the late-filed call center change notification for the [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] call center.

II. DISCUSSION

The Companies request that the Commission grant an expedited, retroactive waiver of the requirement to file the call center change notification with the Administrator 30 days prior to changing the location. Generally, the Commission's rules may be waived for good cause shown.⁵ The Commission may waive a rule where the particular facts make strict compliance with the rule inconsistent with the public interest.⁶ In addition, the Commission may take into

⁴ See Exhibit 2 (July 9, 2018 Call Center Change Notification to Administrator).

⁵ 47 C.F.R. § 1.3.

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

account considerations of hardship, equity, or more effective implementation of overall policy in electing to waive one or more of its rules.⁷

Grant of the Companies' waiver request is in the public interest. The Commission has previously found that good cause exists to waive its rules to permit petitioners to correct inadvertent, ministerial or clerical errors associated with Commission forms or other submissions.⁸ Here, ZVRS properly notified the Commission of the [*** BEGIN CONFIDENTIAL ***] [REDACTED] call center change, but it failed to also notify the Administrator due to [*** BEGIN CONFIDENTIAL ***] [REDACTED]

[REDACTED] [*** END CONFIDENTIAL ***]

This error has not been made under current management and it was an honest mistake.

As a result of the oversight, the Administrator is withholding [*** BEGIN
CONFIDENTIAL ***] [REDACTED]
[REDACTED]
[REDACTED] [*** END CONFIDENTIAL ***] That is a disproportionate
punishment for a simple and regretful mistake that has been fixed moving forward. The

⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (“*WAIT Radio*”); *Northeast Cellular*, 897 F.2d at 1166.

⁸ See, e.g., *William Banks*, Letter Order, 25 FCC Rcd 1257 (CGB Feb. 3, 2010) (granting CSDVRS's request for payment of VRS calls from December 2008 through April 2009 for which CSDVRS's billing platform failed to capture call conversation time); *Mr. Gil M. Strobel*, Letter Order, 25 FCC Rcd 5836 (CGB May 27, 2010) (granting Sorenson's request for waiver the requirement that all TRS providers "must submit reports of interstate TRS minutes of use to the administrator in order to receive payments" where technical difficulties prevented Sorenson from capturing certain call data information required by the rules); see also, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools Ann Arbor, MI, et al. Schools and Libraries Universal Service Support Mechanism*, Order, 25 FCC Rcd 17319, 17319-21 (WCB 2010) (these errors included, among other things, failing to timely notify the Universal Service Administrative Company (USAC) to correct a USAC clerical error, failing to follow the correct procedure for modifying an FCC Form 471, and failing to separately list a building where equipment was to be located).

⁹ This oversight also provides an opportunity to highlight the need for clarification in the Administrator's filing instructions regarding company call centers. The main body of those instructions notes that the openings or closings of call centers must be reported to the Commission and the Administrator 30 days prior to the event. Unlike the Commission's rules, however, the main body of the Administrator's instructions does not specifically mention the move of a call center as a reason to file a notice of call center change. This language should be updated to avoid any future confusion arising from the Administrator's filing instructions.

withholding of this amount of reimbursements creates an undue hardship, as this amount of funding is operationally material. [*** BEGIN CONFIDENTIAL ***] [REDACTED]

[REDACTED]

[*** END CONFIDENTIAL ***] The calls were otherwise handled in accordance with the Commission's mandatory minimum standards for VRS.

Moreover, upon discovering the error, steps were immediately taken to correct the mistake. The Chief Compliance Officer for the Companies has also taken steps to address this problem internally to reduce the chances that it will happen again. [*** BEGIN CONFIDENTIAL ***]

[REDACTED]

[*** END CONFIDENTIAL ***]
[REDACTED]
***]

III. CONCLUSION

For the foregoing reasons, the Companies respectfully request that, with respect to the [*** BEGIN CONFIDENTIAL ***] [REDACTED] [*** END CONFIDENTIAL ***] call center, the Commission expeditiously grant a retroactive waiver of the requirement in Section 64.604(c)(5)(iii)(N)(2)(iii).

Respectfully submitted,

/s/ Gregory Hlibok

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July 27, 2018

EXHIBIT 1

April 27, 2018 Call Center Change Notification to Commission

[EXHIBIT REDACTED IN ENTIRETY]

EXHIBIT 2

July 9, 2018 Call Center Change Notification to the Administrator

[EXHIBIT REDACTED IN ENTIRETY]